IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX REFERENCE NO.227 OF 1998

The Commissioner of Income-tax ..Applicant.

V/s.

M/s.Lubrichem Industries P. Ltd. ..Respondent.

Mr.A.S.Rao for applicant.

CORAM : V.C. DAGA AND J.P.DEVADHAR, JJ.

DATED : 15TH MARCH, 2005.

P.C. :-

1. The Income Tax Tribunal has referred under mentioned question for the opinion of this Court reading as under :-

> "1. Whether, on the facts and in the circumstances of the case, the Tribunal was right in law in holding that brokerage and commission are not sales Promotion expenditure and thereby outside the purview of section 37(3A) for computing the disallowance ?
>
> 2. Whether, on the facts and in the circumstances of the case, the Tribunal was right in law in upholding the decision of the Commissioner of Income-tax (Appeals) holding that the provisions of section 40(c) will apply to employee directors for the purpose of computation of disallowance out of salary and perquisites ? "

2. The above question has already been answered by the Apex Court in the case of **C.I.T. V/s. P.J. Chemicals Ltd. [(1994) 210 I.T.R. 830 (S.C.)** in the affirmative i.e. in favour of the assessee and against the revenue. In this view of the matter, reference stands disposed of in terms of that Judgment with no order as to costs.

(V.C. DAGA, J.)

(J.P.DEVADHAR, J.)